

EXHIBIT C

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVIS

September 21, 2021

1-4

Page 1

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UNITED STATES DISTRICT COURT

for the

Western District of New York

Civil Action No. 17cv132

DR. JOHN A. REPICCI, et al.

Plaintiff,

v.

CHRISTOPHER JARVIS,

Defendant.

_____/

DEPOSITION OF: HYMAN B. POLAKOFF

ON BEHALF OF: Attorney for Defendant

DATE: September 21, 2021

TIME: 1:02 p.m. to 2:30 p.m. ET

PLACE: All Parties Remote Via Zoom

REPORTED BY: Stephanie R. Zeitvogel, FPR-C

Stenographic Reporter

Notary Public

State of Florida at large

Page 2

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APPEARANCES:

RICHARD A. MOORE, ESQ.

Magavern, Magavern & Grimm

1100 Rand Building

14 Lafayette Square

Buffalo, New York 14203

rmoore6394@gmail.com

Attorney for Plaintiff

MATTHEW TRACY, ESQ.

Winget Spadafora Schwartzberg

45 Broadway, 32nd Floor

New York, New York 10006

212-221-6900

tracy.m@wssllp.com

Attorney for Defendant

MORGAN BENTLEY, ESQ.

Bentley Law

783 South Orange Avenue, Unit 300

Sarasota, Florida 34236

mbentley@thebentleylawfirm.com

Attorney for Witness

Page 3

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19

20

21

22

23

24

25

INDEX TO PROCEEDINGS AND EXHIBITS

PAGE

LINE

Direct Examination by Mr. Tracy

4

8

Exhibit A 10/9/2002 Letter from Jarvis

13

24

to Polakoff

Exhibit B 2011 E-mails

20

25

Exhibit C January 7, 2014 Letter from

33

18

Repicci to Jarvis

Exhibit D March 2014 E-mail from Jarvis

36

9

to Polakoff

Exhibit E 58-page Enclosure, 2014

38

5

E-mails

Certificate of Oath

55

1

Certificate of Reporter

56

1

Errata sheet

57

1

Page 4

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

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COURT REPORTER: Do you swear or affirm that

the testimony you are about to give will be the

truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

HYMAN B. POLAKOFF,

the witness herein, being first duly sworn, was examined

and testified as follows:

DIRECT EXAMINATION

BY MR. TRACY:

Q Good afternoon, Mr. Polakoff. My name is

Matthew Tracy. I'm a lawyer with Winget, Spadafora &

Schwartzberg, and I represent Christopher Jarvis in a

lawsuit that was brought by Dr. John Repicci and the

various other parties against him.

My first question is, have you ever had your

deposition taken before?

A I couldn't understand what you said.

Q Have you ever had your deposition taken

before?

A No.

Q Okay. Basically, well, it's as if we were in

a court of law. I'm going to ask you a series of

questions. I would ask that you respond verbally, and

that also if you can just let me finish my question

before you start speaking so the court reporter can get

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVIS

September 21, 2021

5-8

<p style="text-align: right;">Page 5</p> <p>1 everything down.</p> <p>2 Do you understand me so far?</p> <p>3 A Yes.</p> <p>4 Q Okay. What, if anything, did you do to</p> <p>5 prepare for today's deposition?</p> <p>6 A Not very much.</p> <p>7 Q When you say not very much, describe it as</p> <p>8 generally as you can.</p> <p>9 A Well, I took some notes to myself just to</p> <p>10 remind me of things, but I -- I didn't do that much.</p> <p>11 Q Did you review any documents in preparation</p> <p>12 for today other than the ones you just told me?</p> <p>13 A No.</p> <p>14 Q And did I understand that you were one of the</p> <p>15 founding partners of an accounting firm Brock, Schechter</p> <p>16 & Polakoff? Is that correct?</p> <p>17 A Yes.</p> <p>18 Q When was Brock, Schechter & Polakoff founded,</p> <p>19 approximately?</p> <p>20 A I don't know. 30 years ago.</p> <p>21 Q And in the course of -- let me just back up.</p> <p>22 Do you know who Dr. John Repicci is?</p> <p>23 A Yes.</p> <p>24 Q And how do you know him?</p> <p>25 A He was my client.</p>	<p style="text-align: right;">Page 7</p> <p>1 Richard, I think.</p> <p>2 MR. TRACY: Yeah, we did, so we have to wait a</p> <p>3 second.</p> <p>4 (Discussion off the record.)</p> <p>5 BY MR. TRACY:</p> <p>6 Q Mr. Polakoff, when you founded Brock,</p> <p>7 Schechter & Polakoff 30 years ago, how many accountants</p> <p>8 were there?</p> <p>9 A At first there were about 30 accountants, 30</p> <p>10 including the secretaries. There were 30 people.</p> <p>11 Q Thirty people. Okay.</p> <p>12 And are you still working for Brock,</p> <p>13 Schechter?</p> <p>14 A No, I haven't worked in about 20 years.</p> <p>15 Q In how long?</p> <p>16 A About 20 years.</p> <p>17 Q Okay. And what happened 20 years ago? Did</p> <p>18 you retire or something else?</p> <p>19 A Well, they were phasing me out as a partner,</p> <p>20 and I was working with the staff. The staff had grown,</p> <p>21 and I worked with the staff in the transition of my</p> <p>22 clients.</p> <p>23 Q And in that transition, was there a particular</p> <p>24 partner at your firm who started working with</p> <p>25 Dr. Repicci?</p>
<p style="text-align: right;">Page 6</p> <p>1 Q And when did he become your client, to the</p> <p>2 best of your recollection?</p> <p>3 A About 20 years ago.</p> <p>4 Q Approximately 20 years ago. And how did he</p> <p>5 become your client, if you remember?</p> <p>6 A I don't remember.</p> <p>7 Q Okay. What was -- when he came to you, was he</p> <p>8 a referral or did you meet him socially or something</p> <p>9 else, if you remember?</p> <p>10 A I don't remember.</p> <p>11 Q And what -- when you first started doing work</p> <p>12 for Dr. Repicci, what services did he want you to</p> <p>13 perform?</p> <p>14 A Well, I met with him to talk about taxes and</p> <p>15 to -- we met usually around 10:00 to -- 10 o'clock or</p> <p>16 2 o'clock. We -- I picked up his tax preparation papers</p> <p>17 and discussed various items.</p> <p>18 Q Other than tax preparation, did you provide</p> <p>19 any other type of services to Dr. Repicci at any time?</p> <p>20 A Well, my firm, they -- he was the firm client.</p> <p>21 So if there were things that were done sometimes, a</p> <p>22 client would come and say I need this done or I need</p> <p>23 this done. So the major thing that I did for him is</p> <p>24 associated with his taxes.</p> <p>25 MR. BENTLEY: Hey, Matt. We just lost</p>	<p style="text-align: right;">Page 8</p> <p>1 A Well, I wouldn't know because I don't know</p> <p>2 what's going on now and, like, I heard a couple partners</p> <p>3 retired and I never knew that. So I don't know anything</p> <p>4 that's going on there.</p> <p>5 Q For now, but at the time when you were in your</p> <p>6 transition period, was there a particular partner who</p> <p>7 was assigned to take over Dr. Repicci's business from</p> <p>8 you?</p> <p>9 A I don't know.</p> <p>10 Q Would you have any type of records that would</p> <p>11 be able to tell you that or is that something I would</p> <p>12 need to get from Brock, Schechter?</p> <p>13 A I would not have any records on that.</p> <p>14 Q And at Brock, Schechter, you indicated when --</p> <p>15 at the time you were being phased out, what kind of</p> <p>16 services did Brock, Schechter provide?</p> <p>17 A That included me or to my clients?</p> <p>18 Q Everybody, the whole firm.</p> <p>19 A What kind of services?</p> <p>20 Q Correct.</p> <p>21 A The firm did audits, tax services, various</p> <p>22 consulting work.</p> <p>23 Q Did any of that -- in the consulting work, did</p> <p>24 any of that include -- I'm sorry, my -- did any of that</p> <p>25 include insurance?</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
9-12

<p style="text-align: right;">Page 9</p> <p>1 MR. BENTLEY: Did any of it include insurance?</p> <p>2 THE WITNESS: No. We went through -- we</p> <p>3 did -- a few of us got our insurance licenses, but</p> <p>4 like in my own case, I -- I didn't want to do it</p> <p>5 and I reversed it. I didn't do it.</p> <p>6 BY MR. TRACY:</p> <p>7 Q When you say reversed it, what type of</p> <p>8 insurance license were --</p> <p>9 A A general insurance license, but I never used</p> <p>10 it.</p> <p>11 Q When did you have your general insurance</p> <p>12 license?</p> <p>13 A What was it in?</p> <p>14 Q When did you have it, approximately? And a</p> <p>15 general insurance license, would that apply to life</p> <p>16 insurance?</p> <p>17 A I don't remember because I went in and out and</p> <p>18 I never did anything. I just signed up and then</p> <p>19 withdrew from it. But I never did anything with life</p> <p>20 insurance.</p> <p>21 Q Let me ask you this. I'm going to have to</p> <p>22 just back up a little bit.</p> <p>23 When -- you were a CPA, correct?</p> <p>24 A Yes.</p> <p>25 Q And when did you obtain your CPA license?</p>	<p style="text-align: right;">Page 11</p> <p>1 A No.</p> <p>2 Q So you're still providing tax services to him?</p> <p>3 A No. I haven't worked, done anything for the</p> <p>4 past almost 20 years. I don't do anything -- for him.</p> <p>5 MR. BENTLEY: You do a lot, just not taxes for</p> <p>6 the doctor.</p> <p>7 THE WITNESS: Oh, yeah.</p> <p>8 BY MR. TRACY:</p> <p>9 Q That's what I'm asking. I mean, what kind of</p> <p>10 services if any are you providing for the doctor now?</p> <p>11 A Now? Nothing.</p> <p>12 Q How about ten years ago, 2011?</p> <p>13 A Right. Well, I was doing some special tax</p> <p>14 work and -- with another attorney, and which enveloped</p> <p>15 special -- special type of tax, like trusts -- not</p> <p>16 trusts. Let's see. I wrote down trust. There's a</p> <p>17 whole list of things. I used to go to the Heckerling</p> <p>18 Institute at the University of Miami, and it's a high</p> <p>19 level estate planning for clients.</p> <p>20 Q And as part of that, would you provide estate</p> <p>21 planning services at any time for Dr. Repicci?</p> <p>22 A Yes.</p> <p>23 Q And when did you start doing that?</p> <p>24 A Well, it didn't start or end. It comes up if</p> <p>25 something is -- would help him, I would tell him -- I</p>
<p style="text-align: right;">Page 10</p> <p>1 A Around 1975.</p> <p>2 Q And when you obtained -- I think you indicated</p> <p>3 that you worked with Brock, Schechter for about 30</p> <p>4 years. From, say, 1975 through 1990, did you work at</p> <p>5 any place -- strike that.</p> <p>6 After -- when you obtained your CPA in 1975,</p> <p>7 where were you working?</p> <p>8 A It was a firm called Reefer, Brock and Bolenka</p> <p>9 [phonetic].</p> <p>10 Q And how long were you there?</p> <p>11 A I was there, I don't know, five, six, seven</p> <p>12 years.</p> <p>13 Q Okay. And then after that, where did you go</p> <p>14 to?</p> <p>15 A Joe Brock and myself split off with somebody,</p> <p>16 Norbert Schechter, to set up the firm Brock, Schechter &</p> <p>17 Polakoff, and Dave Reefer merged with a national</p> <p>18 accounting firm, which I forget what the name was.</p> <p>19 Q Okay. And so you basically since that time</p> <p>20 until retirement were with Brock, Schechter & Polakoff,</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q And with respect to Dr. Repicci, did there</p> <p>24 ever come a time when you stopped providing tax services</p> <p>25 to him personally?</p>	<p style="text-align: right;">Page 12</p> <p>1 would talk to him about it.</p> <p>2 Q When was the last time you spoke to him about</p> <p>3 estate planning services?</p> <p>4 A Ten or 20 years ago.</p> <p>5 Q And what -- to the best of your recollection,</p> <p>6 what was that conversation about?</p> <p>7 A I don't remember.</p> <p>8 Q Now, did there come a time -- well, strike</p> <p>9 that.</p> <p>10 Do you know who Chris Jarvis is?</p> <p>11 A I know who he is.</p> <p>12 Q How do you know him?</p> <p>13 A Well, I know him through Dr. Repicci there</p> <p>14 with the insurance.</p> <p>15 Q And did you ever meet with Chris Jarvis in</p> <p>16 person at any time?</p> <p>17 A No.</p> <p>18 Q Have you ever had a telephone conversation</p> <p>19 with Chris Jarvis?</p> <p>20 A Not a lot, you know. I --</p> <p>21 Q When you say not a lot, how -- what would be</p> <p>22 the frequency?</p> <p>23 A It may be, like, twice a year.</p> <p>24 Q And what would be the purpose of those calls</p> <p>25 twice a year?</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
13-16

<p style="text-align: right;">Page 13</p> <p>1 A Well, mostly it was Dr. Repicci asking me to 2 talk to him. 3 Q And why would Dr. Repicci ask you to talk to 4 him? 5 A Well, Chris would tell him certain things, and 6 then he just wanted me to be aware of it. He wasn't 7 asking me to perform a service, but he just wanted me to 8 be aware of things. 9 Q Did he ever ask your opinion about what Chris 10 Jarvis was telling you? 11 A No. He knew -- he knew -- very, very, very 12 smart. He's probably smarter than the five of us all 13 put together. 14 Q I will stipulate to that. 15 Now, why don't we take a look, if you can -- 16 I'm going to mark as Exhibit A what I put in the chat 17 which is October 9, 2002, letter. And if you could show 18 the witness that -- I guess -- Stephanie, do you mark it 19 electronically? 20 COURT REPORTER: Yes, I usually mark it after 21 the deposition. 22 MR. TRACY: That's fine. Okay. This is what 23 that is. 24 (Exhibit A marked for identification.) 25 MR. BENTLEY: This is the Jarvis letter,</p>	<p style="text-align: right;">Page 15</p> <p>1 most of the period that I told you about. 2 Q And in the case here: Hy, thanks for all your 3 help so far. We are still awaiting the financial 4 information, including profit and loss statements for 5 the businesses and verified values of some of his 6 assets. 7 Was that information that you were going to be 8 able to send to Chris Jarvis? 9 A I -- I don't remember ever getting this 10 letter. 11 Q Have you seen it before today? 12 A I got this -- I got this letter when I was 13 supposed to do a deposition in June, and I don't know if 14 it was -- I don't know who sent it to me but it came in 15 the mail. 16 Q And let me ask you this. Were you still 17 affiliated with Brock, Schechter & Polakoff on 18 October 9, 2002? 19 MR. BENTLEY: Objection, asked and answered. 20 But you can answer if you can. 21 THE WITNESS: Very little. 22 BY MR. TRACY: 23 Q Okay. Was Brock, Schechter & Polakoff's 24 address on October 9th, 2002, 135 Delaware Avenue, 25 Buffalo, New York 14202?</p>
<p style="text-align: right;">Page 14</p> <p>1 October 9th? 2 MR. TRACY: Correct, yes. 3 MR. BENTLEY: Yeah, I have it up on our screen 4 here. 5 MR. TRACY: Can you read it? 6 MR. BENTLEY: Yes, it's gigantic. 7 MR. TRACY: Fantastic. 8 BY MR. TRACY: 9 Q Mr. Polakoff, when you get a chance, have you 10 read this letter or do you recognize it? 11 A I read it. 12 Q I'm sorry? 13 A I read it. 14 Q Okay. And it's addressed from Chris Jarvis to 15 you. Now, as of October 9th, 2002, were you still 16 active at Brock, Schechter? 17 A Not a lot. 18 Q Not a lot, but it looks -- indicates that you 19 were still working there. 20 A It indicates that my name is on the letter. 21 That's all that indicates. 22 Q Well, let me ask you this. Does it refresh 23 your recollection timing wise as to when you started to 24 do less work at Brock, Schechter? 25 A It was over the period that I told you about,</p>	<p style="text-align: right;">Page 16</p> <p>1 A I don't know because we moved and -- to 2 Exchange Street, and I don't know what the date was of 3 that move. 4 Q Were -- in October of 2002, were you having 5 any issues getting your mail? 6 A If I didn't get it, I wouldn't have known. 7 Q Well, did you have any -- to the best of your 8 recollection, did you have any other instances that you 9 recall where someone said they mailed something to you 10 and you never got it? 11 MR. BENTLEY: Object to form. I don't think 12 he -- I don't know. Slightly mischaracterizes the 13 testimony. 14 But you can answer if you can. 15 MR. TRACY: I'm just asking if he was having 16 any trouble, to his knowledge -- 17 BY MR. TRACY: 18 Q To your knowledge, were you having any trouble 19 receiving mail in October of 2002? 20 MR. BENTLEY: And that's fine. Your other 21 question though was any other problems, so that's 22 why I objected. 23 THE WITNESS: I don't remember. I can't -- I 24 don't remember that. 25</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
17-20

<p style="text-align: right;">Page 17</p> <p>1 BY MR. TRACY:</p> <p>2 Q Okay. Do you recall -- do you recall ever</p> <p>3 having a conversation with Chris Jarvis in 2002 or any</p> <p>4 time regarding the fact that illustrations for the</p> <p>5 Lincoln life insurance policy showed that it could run</p> <p>6 out -- it could basically run out of money in about 12</p> <p>7 to 15 years. Do you recall having a conversation like</p> <p>8 that?</p> <p>9 A I did not have a conversation about that.</p> <p>10 Q With anybody?</p> <p>11 A Dr. Repicci told me some things and it may</p> <p>12 have been in the conversation, but I didn't do anything</p> <p>13 about it.</p> <p>14 Q Well, what did he say to you in those</p> <p>15 conversations?</p> <p>16 A I mean, he all the time said that this is this</p> <p>17 and this is that and he's telling me things, and I'm</p> <p>18 really not an expert on insurance. I couldn't give him</p> <p>19 advice. And I wouldn't give him advice, so -- but he</p> <p>20 just wanted me to know what he was thinking and what was</p> <p>21 being done.</p> <p>22 Q Okay. What was he thinking? I mean, when you</p> <p>23 say he told you things, like, what would -- for example,</p> <p>24 what was he telling you?</p> <p>25 A I don't remember. It was a long time ago, and</p>	<p style="text-align: right;">Page 19</p> <p>1 insurance policy in or about 2002?</p> <p>2 A I don't remember, and I -- I just don't</p> <p>3 remember that.</p> <p>4 Q Let me ask you this. How frequently in 2002</p> <p>5 would you meet with Dr. Repicci?</p> <p>6 A Probably once a year to do his taxes, and</p> <p>7 spend two or three or four hours with him talking about</p> <p>8 the economy or something.</p> <p>9 Q Did you at any time ever communicate with him</p> <p>10 via e-mail?</p> <p>11 A Did I communicate via e-mail?</p> <p>12 Q With him, with Dr. Repicci.</p> <p>13 A With him? I don't think he used e-mail.</p> <p>14 Q Would you e-mail anyone who acted on his</p> <p>15 behalf?</p> <p>16 A I don't know.</p> <p>17 Q Okay.</p> <p>18 A Probably not. He communicated via fax</p> <p>19 machines.</p> <p>20 Q Now, if you look at the fourth page of this or</p> <p>21 third page of this document, I should say, it indicates,</p> <p>22 Conclusion, and it states: I understand why you and</p> <p>23 John were concerned with an illustration that showed the</p> <p>24 policies running out in 12 to 15 years.</p> <p>25 Do you recall expressing to either Dr. Repicci</p>
<p style="text-align: right;">Page 18</p> <p>1 I don't remember.</p> <p>2 Q Now, what was Dr. Repicci's background in</p> <p>3 terms of insurance? Was he familiar with it?</p> <p>4 A Dr. Repicci?</p> <p>5 Q Yeah.</p> <p>6 A Well, again, I have to tell you that he's</p> <p>7 smarter than the five of us, and if he reads something</p> <p>8 or looks into it, I would put my money on him.</p> <p>9 Q That's fine.</p> <p>10 Did he have any, to your knowledge, any prior</p> <p>11 experience with insurance?</p> <p>12 A I don't know.</p> <p>13 Q Well, when he came to you in -- well, let me</p> <p>14 ask you this. In 2002, approximately how long had</p> <p>15 Dr. Repicci been a client of yours?</p> <p>16 A I don't know. 10, 15 years.</p> <p>17 Q Okay. And so at that point, so somewhere in</p> <p>18 the late '80s, early '90s, you started doing work for</p> <p>19 him. And did -- in the late '80s and early '90s, was</p> <p>20 there any discussion with you and him about estate</p> <p>21 planning?</p> <p>22 A I don't remember. Probably, but I don't</p> <p>23 remember.</p> <p>24 Q Well, did you have any discussions with him</p> <p>25 regarding Chris Jarvis and the purchase of this</p>	<p style="text-align: right;">Page 20</p> <p>1 or Chris Jarvis concerns about an illustration that</p> <p>2 shows that the policy is running out in 12 to 15 years?</p> <p>3 A Dr. Repicci had expressed it to me verbally.</p> <p>4 Q When did he express that to you?</p> <p>5 A I don't know. I -- I'm 81 years old, and I</p> <p>6 don't remember what I did yesterday, and I'm going to</p> <p>7 remember 20 years ago what somebody said or did?</p> <p>8 Q Do the best you can. It's not a memory</p> <p>9 contest. That's why I ask.</p> <p>10 Okay. Now, I think you indicated that you</p> <p>11 spoke to Chris Jarvis approximately twice a year, if I</p> <p>12 have it. When was the last time you spoke to Chris</p> <p>13 Jarvis, if you recall?</p> <p>14 A I don't remember.</p> <p>15 Q Do you recall what the sum and substance of</p> <p>16 such conversation would have been?</p> <p>17 A I don't remember.</p> <p>18 Q What I'm going to next are a set of e-mails</p> <p>19 from 2011. Just bear with me one second.</p> <p>20 Okay. You can show the witness when you get a</p> <p>21 moment. I'm going to have to ask the reporter to</p> <p>22 mark -- it's a 64-page document, which would be Polakoff</p> <p>23 Exhibit B, and I would describe it as e-mails from --</p> <p>24 2011 e-mails.</p> <p>25 (Exhibit B marked for identification.)</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
21-24

<p style="text-align: right;">Page 21</p> <p>1 MR. MOORE: Can I interrupt for just a second</p> <p>2 here?</p> <p>3 MR. TRACY: Sure.</p> <p>4 MR. MOORE: Just want to let know. I'm on the</p> <p>5 same screen with the document and it's not going</p> <p>6 too well. I'm going to try and set up another</p> <p>7 screen that I can put the document up on</p> <p>8 separately, but go ahead and continue.</p> <p>9 MR. TRACY: That's fine. And when --</p> <p>10 BY MR. TRACY:</p> <p>11 Q Mr. Polakoff, can you put the --</p> <p>12 MR. BENTLEY: We have it on the screen.</p> <p>13 MR. TRACY: Okay, great.</p> <p>14 MR. BENTLEY: Do you want me to start at the</p> <p>15 beginning of the e-mail chain or do you just --</p> <p>16 MR. TRACY: Why don't we start at the</p> <p>17 beginning just on Page 1 of 64. And it</p> <p>18 indicates -- it's Chris Jarvis, sent Wednesday,</p> <p>19 August 24th, 2011, to Celia Clark and Hyman</p> <p>20 Polakoff, Subject: Repicci. And --</p> <p>21 MR. BENTLEY: The first one I have is</p> <p>22 November 1st, 2011, on Page 64 from Chris Jarvis to</p> <p>23 I and Celia.</p> <p>24 MR. TRACY: Hang on one second. Go all the</p> <p>25 way to Page 1. I think that's the back of the</p>	<p style="text-align: right;">Page 23</p> <p>1 limited liability claim?</p> <p>2 A I wouldn't work with him, I would work with</p> <p>3 Celia.</p> <p>4 Q Do you recall doing work with her with the two</p> <p>5 of you in conjunction working on that for Dr. Repicci?</p> <p>6 A I don't remember, but it could have been. I</p> <p>7 don't remember.</p> <p>8 Q Well, let me ask you this --</p> <p>9 A She may have done this on her own without me.</p> <p>10 I don't know if I would add any benefits to what she's</p> <p>11 doing. She did do a lot of independent tax work for</p> <p>12 him.</p> <p>13 Q Well, it seems to be they are copying you and</p> <p>14 you apparently were making at least one phone call to</p> <p>15 Celia about it. Does that refresh your recollection?</p> <p>16 A Where do you see that?</p> <p>17 Q It says, Hy just called. Dr. R seems to be</p> <p>18 confused about this. Hy just called.</p> <p>19 And it would indicate --</p> <p>20 A Well, probably John said something to me and I</p> <p>21 probably -- calls in between myself and his attorney and</p> <p>22 Chris or anybody else don't mean that I'm doing work.</p> <p>23 It means that he told me something and that's what</p> <p>24 probably happened.</p> <p>25 Q Well, and then that would be -- well, I mean,</p>
<p style="text-align: right;">Page 22</p> <p>1 document.</p> <p>2 MR. BENTLEY: Oh, okay. That's August 24th,</p> <p>3 yeah. Got you.</p> <p>4 MR. TRACY: Yeah, that's it.</p> <p>5 BY MR. TRACY:</p> <p>6 Q And, Mr. Polakoff, who is Celia Clark?</p> <p>7 A Celia Clark was a tax attorney, and I worked</p> <p>8 with her on what I talked about, the various items of</p> <p>9 estate planning.</p> <p>10 Q And where is she located?</p> <p>11 A She's in New York City.</p> <p>12 Q And this indicates, I guess, earlier is</p> <p>13 on 8/24/11, Celia Clark wrote -- and she was writing to</p> <p>14 Chris: Were you going to confirm the amount of paid-up</p> <p>15 death benefit in the EBI-Repicci LLC policy? Dr. R</p> <p>16 seems to be confused about this. Hy just called.</p> <p>17 And that -- well, let me ask you a couple</p> <p>18 questions. What to your recollection is EBI-Repicci</p> <p>19 LLC?</p> <p>20 A You know, I don't remember. I can guess</p> <p>21 but --</p> <p>22 MR. BENTLEY: I don't think he wants you to</p> <p>23 guess, but --</p> <p>24 BY MR. TRACY:</p> <p>25 Q Do you recall working with Dr. Repicci on a</p>	<p style="text-align: right;">Page 24</p> <p>1 let me ask you. If Dr. Repicci asked you or raised a</p> <p>2 concern --</p> <p>3 A He didn't ask me, he told me.</p> <p>4 Q He told if --</p> <p>5 A He told me if he would do something or if he</p> <p>6 had a problem or if he felt something was wrong, he</p> <p>7 would tell me. He usually didn't ask me, especially on</p> <p>8 insurance.</p> <p>9 Now, if he did it on estate taxes, I used to</p> <p>10 teach through the AICPA and the New York State Society</p> <p>11 of CPAs various estate planning items. So if he did ask</p> <p>12 me on something, I probably could have answered.</p> <p>13 Q Well, let me ask you this. In 2002, when</p> <p>14 Chris Jarvis presented -- or strike that.</p> <p>15 When Chris Jarvis -- let me ask you this.</p> <p>16 Strike both those questions.</p> <p>17 What was your understanding of the purpose of</p> <p>18 the insurance policies that Dr. Repicci purchased in</p> <p>19 2002?</p> <p>20 A Well, as explained to me, he wanted to provide</p> <p>21 for his family if he should die.</p> <p>22 Q Was there an estate planning/tax savings</p> <p>23 component to that, to the best of your recollection?</p> <p>24 A I don't know.</p> <p>25 Q You don't recall or you don't know?</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
25-28

<p style="text-align: right;">Page 25</p> <p>1 A I don't recall.</p> <p>2 Q Would you have taken any notes from 2002 -- I</p> <p>3 know it's a long time ago but I have to ask -- regarding</p> <p>4 any meetings you might have had or phone conversations</p> <p>5 you would have had with either Dr. Repicci or Chris</p> <p>6 Jarvis?</p> <p>7 MR. BENTLEY: I'm sorry. Are you asking</p> <p>8 whether he took them or whether he has the notes?</p> <p>9 BY MR. TRACY:</p> <p>10 Q Well, let's start with took.</p> <p>11 A Usually if Dr. Repicci told me something, back</p> <p>12 then my memory was pretty good. And if he told me</p> <p>13 there's a problem with a life insurance policy, I</p> <p>14 probably would remember it.</p> <p>15 Q But were you in the habit or was that your</p> <p>16 custom and practice to take notes of client meetings in</p> <p>17 2002?</p> <p>18 A No, never.</p> <p>19 Q If Chris Jarvis had called you in 2002 and you</p> <p>20 had any kind of conversation, was it your custom and</p> <p>21 practice in 2002 to take notes of such conversation?</p> <p>22 A No.</p> <p>23 Q Now, you indicated that you spoke to Chris</p> <p>24 Jarvis either annually or semiannually. Did there come</p> <p>25 a time when that stopped?</p>	<p style="text-align: right;">Page 27</p> <p>1 Dr. Repicci wants to know what he has to do and what it</p> <p>2 will cost him to unwind the EBI-Repicci LLC and take the</p> <p>3 insurance policy as a distribution to him and his trust</p> <p>4 (EBG can have the bonds).</p> <p>5 Do you know what Celia Clark is referring to</p> <p>6 there?</p> <p>7 A No. I mean, I could guess what it is.</p> <p>8 She's -- they are probably talking about doing something</p> <p>9 and she --</p> <p>10 Q Okay. If you go down to Page 14, it's an</p> <p>11 e-mail addressed hp@bspcpa.com. Was that your e-mail</p> <p>12 address in October 2011?</p> <p>13 A Yes.</p> <p>14 Q Okay. From Hyman B. Polakoff, dated</p> <p>15 October 10th, 2011, to Christopher Jarvis: Chris,</p> <p>16 Dr. Repicci just called. He's getting very anxious.</p> <p>17 Can you accelerate getting me the numbers on the</p> <p>18 insurance policy? Hy.</p> <p>19 To the best of your recollection, what was</p> <p>20 Dr. Repicci getting anxious about?</p> <p>21 A I don't know.</p> <p>22 Q And what do you recall about getting numbers</p> <p>23 on the insurance policy, if you know what that's</p> <p>24 referring to?</p> <p>25 A I'm sorry. What?</p>
<p style="text-align: right;">Page 26</p> <p>1 A Well, I wouldn't say that it was annually or</p> <p>2 anything else. It was, like, just out of the blue.</p> <p>3 It's, like, he may call me one year and say this is this</p> <p>4 way, this is -- I'm just filling you in, or if he asked</p> <p>5 me a question, I would say you're going to have to call</p> <p>6 Dr. Repicci about that.</p> <p>7 Q Okay. So is it fair to say that -- like I</p> <p>8 said, I just want to make sure I'm getting this right --</p> <p>9 is that over the years you did not have regular contact</p> <p>10 with Chris Jarvis?</p> <p>11 A Correct.</p> <p>12 Q That's correct?</p> <p>13 A Yeah. Some years I think would be more than</p> <p>14 other years. Generally it wasn't a lot of contact with</p> <p>15 them because the contact that I would be interested in</p> <p>16 was from John Repicci to Chris Jarvis.</p> <p>17 Q And to your knowledge, how often were they in</p> <p>18 contact, if you know?</p> <p>19 A I don't know.</p> <p>20 Q Now, if we scroll down to -- there's a bunch</p> <p>21 of stuff about hurricanes -- we go to Page 12, it's an</p> <p>22 August 31st, 2011 e-mail from Celia Clark. You're not</p> <p>23 copied on this so you may not recall, but I just want to</p> <p>24 check.</p> <p>25 It says, Chris, I just spoke to Hy again.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q You state in your e-mail to Chris: Can you</p> <p>2 accelerate getting me the numbers on the insurance</p> <p>3 policy?</p> <p>4 Do you remember what you were referring to</p> <p>5 there?</p> <p>6 A I don't remember.</p> <p>7 Q Do you recall there being any -- do you recall</p> <p>8 in 2011 Dr. Repicci wanted to unwind a limited liability</p> <p>9 company?</p> <p>10 A I don't remember.</p> <p>11 Q Did you have a lot of experience at any time</p> <p>12 in unwinding limited liability companies?</p> <p>13 A Unwinding what?</p> <p>14 Q Unlimited liability company.</p> <p>15 A It depends on the meaning of unwinding. Are</p> <p>16 you going to close it up and make a distribution or are</p> <p>17 you going to put it someplace else? I don't know.</p> <p>18 Q Well, how frequently would that come up in</p> <p>19 your work?</p> <p>20 A Not too much.</p> <p>21 Q So if it's not too much, I'm just asking, is</p> <p>22 this something that would stand out?</p> <p>23 A What you do with taxes, the laws change all</p> <p>24 the time. So you have to be aware of the tax</p> <p>25 implications, and if you could do one thing like a</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
29-32

<p style="text-align: right;">Page 29</p> <p>1 tax-free merger or something else, those are things that</p> <p>2 you look into to see what the best way of unwinding</p> <p>3 something.</p> <p>4 Q Go to Page 17 of 64. It's from Chris Jarvis</p> <p>5 to Hyman Polakoff. It's Thursday, October 27, 2011, at</p> <p>6 12:25, Subject: Forward: Repicci - Inforce</p> <p>7 Illustrations, and then it has various attachments.</p> <p>8 Do you recall getting Inforce illustrations</p> <p>9 for policy 144 on October 27, 2011?</p> <p>10 A I don't remember.</p> <p>11 Q If you had gotten Inforce illustrations, would</p> <p>12 you have shared those with Dr. Repicci?</p> <p>13 A The Subject: FW: Repicci Inforce -- Inforce</p> <p>14 Illustrations mean that he got that?</p> <p>15 Q No, I'm asking you. You got it, it appears,</p> <p>16 and if you had gotten it, would you have then shared</p> <p>17 this information with Dr. Repicci?</p> <p>18 A Well, I would have assumed that Chris would</p> <p>19 have sent that directly to Dr. Repicci.</p> <p>20 Q Why would you assume that?</p> <p>21 A Or that he was aware of it. I don't know.</p> <p>22 You're asking me about a --</p> <p>23 MR. BENTLEY: It's okay.</p> <p>24 THE WITNESS: -- a situation that I don't know</p> <p>25 the complete package. So you want me to give an</p>	<p style="text-align: right;">Page 31</p> <p>1 A No. I mean, he periodically told me examples</p> <p>2 of what the numbers were, but I didn't do anything with</p> <p>3 that kind of information. I'm just -- because he --</p> <p>4 again, he's very, very smart and he -- he knew what he</p> <p>5 was doing. And for the most part, if he didn't know, he</p> <p>6 should call Chris Jarvis.</p> <p>7 Q Let me ask you this. Hang on one second. Let</p> <p>8 me just kind of get another exhibit up there. Bear with</p> <p>9 me one moment.</p> <p>10 A Is there more on that page? Is there more</p> <p>11 down below?</p> <p>12 Q Not that I'm aware of. I have what I provided</p> <p>13 to everybody. Just the whole -- what we have. If</p> <p>14 anything else, I'm unaware.</p> <p>15 A Let me see what's below.</p> <p>16 Q Keep going. Feel free.</p> <p>17 A Who is Alex Johnson?</p> <p>18 Q That, I'm not sure.</p> <p>19 Well, let me ask you this. Do you know who</p> <p>20 Alex Johnson is?</p> <p>21 A So you only showed me part of this letter.</p> <p>22 Q I'm asking you. Like I said, no one here --</p> <p>23 I'm serious, no one here is trying to trick anybody or</p> <p>24 do anything. I just want to know what you know.</p> <p>25 A Well, my partner Norbert Schechter once came</p>
<p style="text-align: right;">Page 30</p> <p>1 opinion on nothing I know about.</p> <p>2 BY MR. TRACY:</p> <p>3 Q No, I'm just -- I'm asking you is --</p> <p>4 A I don't know. I don't remember this. I don't</p> <p>5 know what the background is. I don't know who talked to</p> <p>6 who. There's a lot that goes with this. I just don't</p> <p>7 know.</p> <p>8 Q Would you in 2011 -- well, in 2011, were you</p> <p>9 still working -- were you working in Buffalo or were you</p> <p>10 working in Florida at that point or both?</p> <p>11 A I moved almost 14 years ago.</p> <p>12 Q So that's 2007. So would you -- have you used</p> <p>13 any other e-mail address but the -- your Brock,</p> <p>14 Schechter e-mail address for this?</p> <p>15 A I did change my e-mail from hp@bspcpa.com to</p> <p>16 hbpcpa12@gmail.com.</p> <p>17 Q Now, in 2011, if you recall, do you recall</p> <p>18 having any conversation with Dr. Repicci about his</p> <p>19 insurance policies with Lincoln?</p> <p>20 A His policies what?</p> <p>21 Q With his life insurance policy with Lincoln.</p> <p>22 A With blanket?</p> <p>23 Q With Lincoln, Lincoln Insurance.</p> <p>24 A Oh, with Lincoln.</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 32</p> <p>1 in my office and said, I just found a tax code that we</p> <p>2 don't have to pay any taxes on our income.</p> <p>3 And I said, Norbert, what are you talking</p> <p>4 about?</p> <p>5 He said, Here, it's in writing.</p> <p>6 I said, Well, how about the page before it and</p> <p>7 the page after it?</p> <p>8 MR. BENTLEY: Details. We have the FedEx</p> <p>9 package now that just came. So if you want to</p> <p>10 refer to that --</p> <p>11 MR. TRACY: Fantastic. If you open up -- hang</p> <p>12 on. For some reason I'm having trouble opening</p> <p>13 something myself. Bear with me. It's a</p> <p>14 January 7th, 2014, letter.</p> <p>15 MR. BENTLEY: January 7th, 2014?</p> <p>16 MR. TRACY: Yeah.</p> <p>17 MR. MOORE: Is that in that second grouping of</p> <p>18 documents?</p> <p>19 MR. TRACY: I thought it was. Now also I'm</p> <p>20 having a little trouble. Just bear with me a</p> <p>21 second.</p> <p>22 MR. BENTLEY: I have it. Is this a letter</p> <p>23 from Dr. Repicci?</p> <p>24 MR. TRACY: Yes, if you could show the witness</p> <p>25 that.</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
33-36

Page 33

1 MR. MOORE: Can I ask what page that's on of
2 the group of 64?
3 MR. TRACY: It's not in the 64. It's a
4 separate document.
5 MR. MOORE: All right. Wait a second here.
6 MR. TRACY: It was listed as January 7, 2014
7 letter electronically, but for some reason --
8 MR. MOORE: Which grouping is it in?
9 MR. TRACY: It should have been in an e-mail I
10 sent to you.
11 MR. MOORE: Right. But there's six groupings
12 of documents in there.
13 MR. TRACY: Yeah, there's the three sets of
14 e-mails --
15 MR. BENTLEY: It says Exhibit H, as in Harry,
16 on the outside of it.
17 MR. TRACY: Right. Correct.
18 (Exhibit C marked for identification.)
19 BY MR. TRACY:
20 Q And this is a January 7th, 2014, letter from
21 Dr. Repicci to Chris Jarvis in which he's raising
22 various complaints about the policies. And my question
23 for you is: Prior to today, have you ever seen this
24 letter before?
25 A Me?

Page 34

1 Q Yes.
2 A I don't know.
3 Q Were you asked to look at any such letter by
4 Dr. Repicci before he sent it out?
5 A I don't know.
6 Q That's a yes or a no. I mean, is -- did
7 you -- you would have any recollection of Dr. Repicci --
8 well, let me ask you it this way. Strike everything.
9 Do you have a recollection of Dr. Repicci
10 complaining about Chris Jarvis and these policies at any
11 time?
12 A I don't remember.
13 Q So -- well, let me ask you this: When was the
14 last time you had a discussion with Dr. Repicci about
15 these policies?
16 A A long time ago.
17 Q When you say a long time ago, do the best that
18 you can in terms of an approximation.
19 A I have no idea. I just don't have any idea.
20 Q More than five years ago?
21 A When you're talking -- are you talking about
22 this is situation --
23 Q Yes.
24 A -- or other situations?
25 Q This situation.

Page 35

1 When was the last time you had --
2 A I wouldn't -- I wouldn't have been involved in
3 this. Celia Clark was a topnotch tax attorney, and
4 there may be somebody from my firm who we have some very
5 good people that -- that know taxes and -- but I -- I
6 would guess that Celia Clark would be the -- technically
7 the lead person on any problems like this.
8 Q Well, let me ask you this: Would you know
9 somebody by the name of Neil Finestone?
10 A I know the name -- I know Dr. Repicci hired
11 him. He's a -- he wasn't -- he's dead, but he was an
12 expert in insurance.
13 Q And when did Dr. Repicci hire him, to the best
14 of your recollection?
15 A I don't know.
16 Q How were you made aware that Dr. Repicci had
17 hired him?
18 A Celia Clark referred him.
19 Q Okay. Taking a look -- and I'm going to --
20 A I didn't have any involvement in this.
21 Q Bear with me one second. The next exhibit.
22 MR. BENTLEY: Do you need a break?
23 THE WITNESS: No.
24 MR. TRACY: Do you need a break? I forgot to
25 mention that part. I apologize. If you need a

Page 36

1 break, take a break for any reason.
2 The next one is an e-mail from March of 2014.
3 MR. BENTLEY: March 5th?
4 MR. TRACY: Yep.
5 MR. BENTLEY: Does it say Jade Risk at the
6 bottom?
7 MR. TRACY: Correct, yes. Exactly.
8 MR. MOORE: I've got it too.
9 (Exhibit D marked for identification.)
10 BY MR. TRACY:
11 Q Okay. This is dated March 5th, 2014, to Hyman
12 B. Polakoff, David R. Di Matteo, Jennifer N. Insalaco,
13 Celia Clark, and Christine Edwards. And it says, Team,
14 I had a nice call with John today and spoke with Hy
15 Polakoff twice.
16 And this is dated March 5th, 2014.
17 Mr. Polakoff, did this refresh your
18 recollection of having any discussions with Chris Jarvis
19 regarding the Lincoln policies?
20 MR. BENTLEY: His question was only does it
21 refresh your recollection as to whether you spoke
22 to Chris Jarvis in 2014. That's all he's asking.
23 THE WITNESS: I don't remember. Who is
24 Christine Edwards?
25

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
37-40

<p style="text-align: right;">Page 37</p> <p>1 BY MR. TRACY:</p> <p>2 Q Going to be my question. Appears she works</p> <p>3 with Celia Clark.</p> <p>4 How about David R. Di Matteo, who is that?</p> <p>5 A David was my partner.</p> <p>6 Q Is he still with Brock, Schechter?</p> <p>7 A Yes.</p> <p>8 Q How about Jennifer Insalaco?</p> <p>9 A She's still there.</p> <p>10 Q Oh, is she a partner there? I just want to</p> <p>11 confirm that.</p> <p>12 A Yeah.</p> <p>13 Q I'm not sure -- do you recall this letter or</p> <p>14 having conversation with Chris Jarvis about this?</p> <p>15 A I don't recall the letter, no.</p> <p>16 Q Do you recall having any conversations with</p> <p>17 Dr. Repicci that he would have to put more money into</p> <p>18 the Lincoln policies? And this would be around 2014.</p> <p>19 A 2014?</p> <p>20 Q Yes.</p> <p>21 A I don't think I talked with John Repicci in</p> <p>22 2014. I haven't talked to him in a long time.</p> <p>23 Q We'll look at the next exhibit. 2014 e-mail,</p> <p>24 not as lengthy as the 2011 one.</p> <p>25 MR. BENTLEY: What date are we looking for?</p>	<p style="text-align: right;">Page 39</p> <p>1 policy that the Repiccis have outside their estate. I</p> <p>2 have requested in force ledgers. Turnaround time period</p> <p>3 is usually four to five days, so we should have</p> <p>4 something by next week.</p> <p>5 Do you recall getting this from Chris Jarvis</p> <p>6 at that time?</p> <p>7 A No. But it's very common that if I got</p> <p>8 something from Chris and there were other people</p> <p>9 involved, I would scan it and then put it in the file.</p> <p>10 Q Now --</p> <p>11 A I don't remember this, so I would guess that I</p> <p>12 wasn't involved.</p> <p>13 Q Well, let me ask you this. If you go to</p> <p>14 Page 5, hbpcpa12@gmail.com, is that an e-mail address of</p> <p>15 yours?</p> <p>16 A Yeah, it's the new one I'm using now.</p> <p>17 Q Yeah. And it's March 11, 2014 to Chris, and</p> <p>18 you're saying, Chris, please let me know when you are</p> <p>19 back to work. Thanks, Hy.</p> <p>20 Now this was sent on a BlackBerry.</p> <p>21 Now, do you recall sending this message to</p> <p>22 Chris Jarvis on March 11, 2014?</p> <p>23 A Was this in connection with what we just went</p> <p>24 through?</p> <p>25 Q It says Dr. Repicci. I'm just asking you if</p>
<p style="text-align: right;">Page 38</p> <p>1 MR. TRACY: Let's just start with the first</p> <p>2 one. Just for the record, this is a 58-page</p> <p>3 enclosure starting on Page 1.</p> <p>4 MR. BENTLEY: February 21st, 2014?</p> <p>5 (Exhibit E marked for identification.)</p> <p>6 BY MR. TRACY:</p> <p>7 Q February 21st. We'll scroll down a little.</p> <p>8 And if you go to Page 2, Stephanie Matlock,</p> <p>9 February 21st, 2014, to yourself and Chris Jarvis, and</p> <p>10 copying C. Edward, C. Clark, and Jennifer Insalaco. Do</p> <p>11 you recall having any kind of conference call with this</p> <p>12 group regarding Dr. Repicci?</p> <p>13 A Me?</p> <p>14 Q Yes.</p> <p>15 A This was 2014?</p> <p>16 Q Correct.</p> <p>17 A Or two-thousand --</p> <p>18 Q 2014. This is '14.</p> <p>19 A I doubt it. I -- I don't remember, but I</p> <p>20 doubt it. Those people in my firm are very high levels,</p> <p>21 and it's quite possible that they did this themselves.</p> <p>22 Q And if you go to Page 3, it's from Chris</p> <p>23 Jarvis, it's Thursday, February 27, 2014, to Celia</p> <p>24 Clark, Hyman Polakoff, Jennifer Insalaco, and David R.</p> <p>25 Di Matteo. And it says, Attached are the other Lincoln</p>	<p style="text-align: right;">Page 40</p> <p>1 you know what this is about.</p> <p>2 A No, but I'm talking about the content.</p> <p>3 What --</p> <p>4 Q I'm just asking you --</p> <p>5 MR. BENTLEY: His question is do you remember</p> <p>6 this e-mail.</p> <p>7 BY MR. TRACY:</p> <p>8 Q Yeah.</p> <p>9 A I don't remember that e-mail, but it's quite</p> <p>10 possible -- Chris Jarvis subject. Chris, Please let me</p> <p>11 know --</p> <p>12 I don't know why I sent that. I don't</p> <p>13 remember it. And there could have been a reason.</p> <p>14 BY MR. TRACY:</p> <p>15 Q Going to Page 6, this is going to be a</p> <p>16 slightly different issue, and it's more of an accounting</p> <p>17 issue. 6 of 58. It's from David Di Matteo. It's</p> <p>18 Tuesday, March 25th, 2014. It's to Anjali Bhat, Hyman</p> <p>19 B. Polakoff, Jennifer Insalaco, Celia Clark, and</p> <p>20 David Di Matteo. It's about Gifts of Preferred and</p> <p>21 Common Interests in EBI-Repicci, LLC.</p> <p>22 Is -- do you recall being informed that they</p> <p>23 were going to -- there was some kind of gift tax</p> <p>24 calculation they were performing in or about March of</p> <p>25 2014?</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
41-44

<p style="text-align: right;">Page 41</p> <p>1 A Well, I was copied on this and I probably got</p> <p>2 it. I don't remember it. But the people -- it's from</p> <p>3 David Di Matteo so I don't know who he was working with</p> <p>4 or if Celia was involved or what, but I just don't know</p> <p>5 anything about this.</p> <p>6 Q Other than you were copied. But you did not</p> <p>7 have any substantive conversations with anybody about</p> <p>8 it?</p> <p>9 A As far as I know. You know, it's 2014. We</p> <p>10 are in 2021. So that's seven years ago.</p> <p>11 Q If you scroll down to Page 11 of 58, it's</p> <p>12 March 25th. It's Anjali Bhat to yourself, Jennifer and</p> <p>13 David: Mr. Polakoff, I'm an associate at Clark &</p> <p>14 Gentry, working on the gifts of interests in</p> <p>15 EBI-Repicci, LLC that will be made by John and Lorraine</p> <p>16 Repicci to the Repicci Irrevocable Family Trust by the</p> <p>17 end of this month. Please see attached a memorandum</p> <p>18 explaining these gifts.</p> <p>19 Do you recall getting this memorandum or</p> <p>20 having any conversation with Anjali Bhat, who was an</p> <p>21 associate at Clark & Gentry?</p> <p>22 A I don't remember, no.</p> <p>23 Q Do you recall that in or about -- strike that.</p> <p>24 Do you recall that at some point in time you</p> <p>25 were made a trustee of the Repicci family life insurance</p>	<p style="text-align: right;">Page 43</p> <p>1 has to make the decision. If you let me know when you</p> <p>2 are done, I can talk with him one more time about this.</p> <p>3 Thanks. Hy.</p> <p>4 Do you recall in or about March 2014 talking</p> <p>5 to Dr. Repicci about which policies he would keep?</p> <p>6 A I don't remember it, but I would guess that it</p> <p>7 probably happened, and it was very common for me to talk</p> <p>8 to Chris and suggest that he talk to John, and sometimes</p> <p>9 I talked to John and suggested John talk to Chris. So</p> <p>10 it means that I really didn't do anything, I'm just</p> <p>11 leading them as a way to resolve the situation.</p> <p>12 Q Okay. If we go now to Page 13 of 58 from</p> <p>13 yourself to Chris and Celia, this is Friday, April 4th,</p> <p>14 2015: Chris, I emailed Celia yesterday and she said she</p> <p>15 had not heard from you about the insurance policies. If</p> <p>16 you have not spoken to John, today may be a good day to</p> <p>17 do it.</p> <p>18 Do you recall why April 4th, 2014, was a good</p> <p>19 day to talk to John about the insurance policies?</p> <p>20 A I don't know what that's about, but if it's</p> <p>21 there I probably did it.</p> <p>22 Q And if we look at Page 16 of 58, it's a little</p> <p>23 bit of a chain. So it starts with Chris to yourself on</p> <p>24 Friday, April 4th, 2014, copy to Celia. And he says to</p> <p>25 you: A couple things: I have spoken to John again and</p>
<p style="text-align: right;">Page 42</p> <p>1 trust?</p> <p>2 A I remember having it done, and it was a long</p> <p>3 time ago, and it was a nominal function.</p> <p>4 Q When you say a nominal function, what was your</p> <p>5 understanding of the function?</p> <p>6 A Well, it -- that whatever I did didn't involve</p> <p>7 insurance and it didn't involve -- probably doesn't</p> <p>8 involve taxes. It was a mechanical situation, and I</p> <p>9 resigned as trustee some time ago.</p> <p>10 Q When did you resign?</p> <p>11 A Oh, I don't know. 10, 15 years ago.</p> <p>12 Q I'm just going to represent to you that</p> <p>13 it's -- as far as I'm aware, that has not gone through.</p> <p>14 Are you aware of that?</p> <p>15 A Well, there was four trusts, and John</p> <p>16 Repicci's daughter called me to -- a couple weeks ago to</p> <p>17 tell me that the fourth trust apparently never went</p> <p>18 through, and I didn't know that. So she sent -- had</p> <p>19 somebody send me papers to sign to take me off as</p> <p>20 trustee, but it should have been done at the time that</p> <p>21 the other three trusts were done.</p> <p>22 Q If you look about Page 12, it's yourself to</p> <p>23 Chris on March 26th, 2014: Chris, I just talked with</p> <p>24 John. He said he spoke with you. I asked him to call</p> <p>25 you again and discuss which policies he would keep. He</p>	<p style="text-align: right;">Page 44</p> <p>1 I am working on his next round of suggestions; I just</p> <p>2 received the fourth round of options from Lincoln and</p> <p>3 will review today; and I have tried to get a call on the</p> <p>4 calendar with Celia for a couple of weeks now. I should</p> <p>5 have a set of recommendations to discuss later today.</p> <p>6 Does that work?</p> <p>7 And you respond: That's okay with me. At</p> <p>8 9:36.</p> <p>9 Do you recall --</p> <p>10 A Where does it say that?</p> <p>11 Q At the top. Top of the page.</p> <p>12 A It's okay with me?</p> <p>13 Q Do you recall having this dialogue with Chris</p> <p>14 Jarvis?</p> <p>15 MR. BENTLEY: It's the same e-mail chain, it</p> <p>16 just has one more entry in it, see? This is all</p> <p>17 the same, and then it adds that.</p> <p>18 BY MR. TRACY:</p> <p>19 Q Take your time. I get that. It's better than</p> <p>20 most.</p> <p>21 A Okay. Whatever.</p> <p>22 Q Let me ask you this. If you go to 18 of 58,</p> <p>23 it's -- it's to Chris, on May 30, 2014: Chris, anything</p> <p>24 new on the insurance?</p> <p>25 Do you recall what would have prompted you to</p>


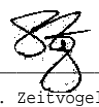
HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
45-48

<p style="text-align: right;">Page 45</p> <p>1 send that e-mail?</p> <p>2 A Chris, anything new on the insurance?</p> <p>3 I must have talked to John. I don't know if</p> <p>4 he was waiting for something, but again, I don't</p> <p>5 remember this.</p> <p>6 Q Also, if you look at Page 19 --</p> <p>7 A It's 17 years ago.</p> <p>8 Q Just for the record, it's seven, but -- which</p> <p>9 is not an unsubstantial time, I understand.</p> <p>10 At 19 of 58 --</p> <p>11 A Is this the same as the other one?</p> <p>12 Q It's a different date. It's about a couple</p> <p>13 weeks later. Any news on Dr. Repicci?</p> <p>14 And do you recall --</p> <p>15 A I don't remember then. Well, I'm not named on</p> <p>16 here on anything, am I?</p> <p>17 MR. BENTLEY: These are different e-mails.</p> <p>18 MR. TRACY: Yeah, these are different.</p> <p>19 MR. BENTLEY: This is the last --</p> <p>20 BY MR. TRACY:</p> <p>21 Q Yeah, I just want to double check one thing.</p> <p>22 I don't think --</p> <p>23 A Oh, any news on Dr. Repicci?</p> <p>24 Q Yeah.</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 47</p> <p>1 A Spoke to Celia -- I just -- I believe we</p> <p>2 have -- [Reading document.]</p> <p>3 Q It helps if you go down to the next one. It's</p> <p>4 from Celia to Chris and you're copied on it as well. It</p> <p>5 says, Chris: Hy and I are stuck because we don't know</p> <p>6 which trusts own which policies currently. I don't know</p> <p>7 what the problem is here. If we could get account</p> <p>8 statements showing owner and beneficiary we would at</p> <p>9 least know where we are starting from. We agree Dr. R</p> <p>10 needs more insurance.</p> <p>11 Do you recall having any conversations with</p> <p>12 either Chris or Celia on that topic?</p> <p>13 A I don't remember, but it's possible.</p> <p>14 Q When you say it's possible, why do you say</p> <p>15 that?</p> <p>16 A Well, because it's in writing here, but it was</p> <p>17 2014. I'm surprised -- I just don't remember.</p> <p>18 Q And on Page 41, this is Chris writing --</p> <p>19 although I don't see -- let me see this. I don't see</p> <p>20 like an address thing. This seems to be part of a</p> <p>21 chain: Hy and Celia, I hope you are doing well and</p> <p>22 finding some time to enjoy your summer. I spoke to John</p> <p>23 Repicci. He would like us to come up with a plan for</p> <p>24 his \$40 million -- \$40 million of investment dollars</p> <p>25 that are currently in his and Lori's estate. I am going</p>
<p style="text-align: right;">Page 46</p> <p>1 Q I'll direct you to -- I thought there was one</p> <p>2 more, but I don't want you to have to -- yeah, you don't</p> <p>3 have to worry about this.</p> <p>4 A I never heard of the name Diana Chen.</p> <p>5 Q Don't worry about it.</p> <p>6 Okay. If you look at Page 40 of 58, it's</p> <p>7 Chris Jarvis to Celia Clark copied to you, Repicci</p> <p>8 Estate Planning. Celia --</p> <p>9 MR. BENTLEY: What is the date?</p> <p>10 BY MR. TRACY:</p> <p>11 Q July 11, 2014. It's on Page 40 of 58.</p> <p>12 A Okay.</p> <p>13 Q And it's: Celia, I just spoke with Hy. I</p> <p>14 believe we have the statements on all the insurance</p> <p>15 policies (1-mass mutual and 2 lincoln). I'm working</p> <p>16 most of the day tomorrow if you want to catch up.</p> <p>17 Do you recall speaking with Chris Jarvis in or</p> <p>18 about July of 2014 about the insurance policies?</p> <p>19 A No. But this is -- this shows me as having a</p> <p>20 copy, so this came from Chris Jarvis to Celia Clark.</p> <p>21 Q And you're copied, yes.</p> <p>22 A How can it be from Chris Jarvis to Celia Clark</p> <p>23 and Chris Jarvis?</p> <p>24 Q I think he's just sending it to himself for</p> <p>25 whatever reason. I know that's confusing.</p>	<p style="text-align: right;">Page 48</p> <p>1 to present a couple scenarios to him in the near future</p> <p>2 and I wanted to give you both a heads up what I have</p> <p>3 created for him so far so we can discuss and come up</p> <p>4 with a unified front to help him move forward. I have</p> <p>5 run a number of projections for them with four</p> <p>6 strategies. One, do nothing. Two, LLC ownership with</p> <p>7 discounting. Three, Estate Freeze. Four, Our Wealth</p> <p>8 Transfer.</p> <p>9 And then it goes on.</p> <p>10 Do you recall having any such discussions with</p> <p>11 Dr. Repicci about this?</p> <p>12 A No.</p> <p>13 Q Do you recall having any conversation with</p> <p>14 Celia Clark about this?</p> <p>15 A No.</p> <p>16 Q Do you recall having any conversations with</p> <p>17 Chris Jarvis about this?</p> <p>18 A No. This is pretty straightforward, though,</p> <p>19 right?</p> <p>20 Q Now, did you ever have any conversation with</p> <p>21 Lori Repicci about the insurance policies?</p> <p>22 A No.</p> <p>23 Q Did you have any conversation -- well, let me</p> <p>24 ask this this way. Have you ever had a conversation</p> <p>25 with Lori Repicci?</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
49-52

<p style="text-align: right;">Page 49</p> <p>1 A About the weather.</p> <p>2 Q When was the last time you spoke to her?</p> <p>3 A A long time ago.</p> <p>4 Q More than ten years?</p> <p>5 A I -- you know, I don't remember. They had</p> <p>6 some family problems and I talked to her. I don't know</p> <p>7 if it was their mother or her brother or something, but</p> <p>8 I did talk to her about that. But it was not -- it's</p> <p>9 nothing to do with this. It was a personal situation.</p> <p>10 Q Okay. Without delving into that, I don't</p> <p>11 need -- obviously don't need to delve into that.</p> <p>12 Was it a relatively recent conversation?</p> <p>13 A With Lori Repicci?</p> <p>14 Q Yes.</p> <p>15 A No. She sends me a Christmas card each year.</p> <p>16 Q Do you recall having any communications with</p> <p>17 Chris Jarvis that he was concerned that Dr. Repicci was</p> <p>18 going to sue him?</p> <p>19 A No. I mean, when I found out that he was</p> <p>20 suing him, but I -- I don't know when that was.</p> <p>21 Q Let me ask you this. How did you find out</p> <p>22 that Dr. Repicci had filed suit?</p> <p>23 A I don't know, but it was recently. When did</p> <p>24 he start the suit?</p> <p>25 Q 2017.</p>	<p style="text-align: right;">Page 51</p> <p>1 A I would say around 1980.</p> <p>2 Q Okay. So a while. Now --</p> <p>3 A I was on estate planning committees of both</p> <p>4 the American Institute of CPAs and the New York State's</p> <p>5 Society of CPAs.</p> <p>6 Q Now, other than Dr. Repicci, have you ever</p> <p>7 worked -- well, strike that.</p> <p>8 Other than with Dr. Repicci, have you ever</p> <p>9 worked with Chris Jarvis in any capacity?</p> <p>10 A No.</p> <p>11 Q Did Chris Jarvis ever ask you for any</p> <p>12 referrals or try to work with you on other clients or</p> <p>13 prospective clients?</p> <p>14 A Not that I remember.</p> <p>15 Q And in working with estate planning, are life</p> <p>16 insurance policies utilized in estate planning?</p> <p>17 A Sometimes.</p> <p>18 Q And are -- and when you say sometimes, like,</p> <p>19 what would they be used for?</p> <p>20 A You know what, I can't -- I haven't done it in</p> <p>21 so long. My mind is a blank.</p> <p>22 Q Now, do you know the difference between a</p> <p>23 whole life insurance policy and a term life insurance</p> <p>24 policy?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 50</p> <p>1 A So that was four years ago. So I -- when I</p> <p>2 found out was, I would guess, in the last year.</p> <p>3 Q How did you find out?</p> <p>4 A No, I take that back.</p> <p>5 Q Okay.</p> <p>6 A It may have been a year and a half ago.</p> <p>7 Q How did you find out a year and a half ago?</p> <p>8 A I don't remember.</p> <p>9 Q Did Dr. Repicci tell you or did you talk to</p> <p>10 somebody else or --</p> <p>11 A There may have been somebody in my office.</p> <p>12 Q Now, when did you start doing estate planning</p> <p>13 work with Celia Clark?</p> <p>14 A What kind of work?</p> <p>15 Q Estate planning.</p> <p>16 A Estate planning?</p> <p>17 Q Yes.</p> <p>18 A I did a lot of estate planning with other</p> <p>19 attorneys. With Celia it probably was around -- I</p> <p>20 didn't think -- I didn't think it would have been, like,</p> <p>21 around 2015 or 2014, but it may have been around that</p> <p>22 time.</p> <p>23 Q Now, you had indicated you have done a lot of</p> <p>24 estate planning work with other attorneys. When did you</p> <p>25 start doing that?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q And what's the difference?</p> <p>2 A A term is -- it generally doesn't have cash</p> <p>3 build up and the other one usually does. I would say</p> <p>4 maybe not -- don't all the time.</p> <p>5 Q And are you familiar with the concepts of</p> <p>6 guaranteed value versus based on current assumptions?</p> <p>7 A No.</p> <p>8 Q Are you -- let me break that down for you.</p> <p>9 Would you be familiar with the concept of guaranteed</p> <p>10 insurance value?</p> <p>11 A I can't say that I'm familiar with it or</p> <p>12 understand it, and my mind is -- I'm going to a doctor</p> <p>13 for some mind work and I don't remember a lot. If you</p> <p>14 want, I'll have my wife send you a letter.</p> <p>15 Q I hear that, and understood.</p> <p>16 I may have asked you this before, but just</p> <p>17 bear with me for a second. How did you meet</p> <p>18 Dr. Repicci, do you remember?</p> <p>19 A Believe it or not, I was referred by another</p> <p>20 attorney.</p> <p>21 Q Totally believe it.</p> <p>22 And what was Dr. Repicci's practice like at</p> <p>23 that time?</p> <p>24 A It was very good.</p> <p>25 Q And were you asked to handle his personal</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVISSeptember 21, 2021
53-56

<p style="text-align: right;">Page 53</p> <p>1 accounting or his practice's accounting or both?</p> <p>2 A I did both, or my firm did both.</p> <p>3 Q With respect to your firm, would Dr. Repicci</p> <p>4 be considered a big client, a medium client, a small</p> <p>5 client, or something in between?</p> <p>6 A He's a very good client.</p> <p>7 MR. TRACY: Subject to if Mr. Moore has any</p> <p>8 questions, I have no further questions for the</p> <p>9 witness.</p> <p>10 MR. MOORE: I have no questions.</p> <p>11 MR. TRACY: Thank you for your time,</p> <p>12 Mr. Polakoff.</p> <p>13 MR. BENTLEY: Thanks. We'll read, Stephanie.</p> <p>14 And you can just coordinate it through my office,</p> <p>15 and the e-mail is mbentley@thebentleylawfirm.com.</p> <p>16 COURT REPORTER: Okay. And Mr. Tracy, did you</p> <p>17 want to order the transcript today?</p> <p>18 MR. TRACY: Yeah, I'll order. Yeah.</p> <p>19 COURT REPORTER: And would anyone else like to</p> <p>20 order a copy?</p> <p>21 MR. MOORE: I would too. Thank you.</p> <p>22 COURT REPORTER: Mr. Bentley, did you want to</p> <p>23 order a copy?</p> <p>24 MR. BENTLEY: I don't, but I do want to look</p> <p>25 at it.</p>	<p style="text-align: right;">Page 55</p> <p>1</p> <p>2 CERTIFICATE OF OATH</p> <p>3 STATE OF FLORIDA)</p> <p>4 COUNTY OF BAY)</p> <p>5</p> <p>6 In my capacity as a Notary Public of the State of</p> <p>7 Florida, I certify that on the 21st day of</p> <p>8 September, 2021, at 1:02 p.m., HYMAN B. POLAKOFF</p> <p>9 personally appeared before me and took an oath or</p> <p>10 affirmation for the purpose of giving testimony in</p> <p>11 the matter of Dr. John A. Repicci, et al. v.</p> <p>12 Christopher Jarvis.</p> <p>13 Produced Identification. Type of Identification</p> <p>14 Produced: Driver's license.</p> <p>15 DATED this 1st day of October, 2021.</p> <p>16</p> <p>17 </p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>STEPHANIE R. ZEITVOGEL, FPR-C Notary Public - State of Florida My Commission No. GG145742 Expires: October 27, 2021</p>
<p style="text-align: right;">Page 54</p> <p>1 COURT REPORTER: Okay. I'll let Esquire get</p> <p>2 with you on the arrangements for that.</p> <p>3 MR. TRACY: Yeah, I'll take care of that.</p> <p>4 (Deposition concluded.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 56</p> <p>1</p> <p>2 CERTIFICATE OF REPORTER</p> <p>3</p> <p>4 STATE OF FLORIDA)</p> <p>5 COUNTY OF BAY)</p> <p>6 I, Stephanie R. Zeitvogel, Stenographic Reporter, do</p> <p>7 hereby certify that I was authorized to and did</p> <p>8 stenographically report the deposition of HYMAN B.</p> <p>9 POLAKOFF; that a review of the transcript was</p> <p>10 requested; and that the foregoing transcript, pages</p> <p>11 1 through 57, is a true and complete record of my</p> <p>12 stenographic notes.</p> <p>13 I FURTHER CERTIFY that I am not a relative,</p> <p>14 employee, or attorney, or counsel of any of the</p> <p>15 parties, nor am I a relative or employee of any of</p> <p>16 the parties' attorney or counsel connected with the</p> <p>17 action, nor am I financially interested in the</p> <p>18 action.</p> <p>19 DATED this 1st day of October 2021, at Panama City,</p> <p>20 Bay County, Florida.</p> <p>21</p> <p>22 </p> <p>23</p> <p>24</p> <p>25</p> <p>Stephanie R. Zeitvogel, FPR-C</p>

HYMAN B. POLAKOFF
JOHN REPICCI vs CHRISTOPHER JARVIS

September 21, 2021

57

Page 57

1 Please attach to the September 21, 2021 deposition of
HYMAN B. POLAKOFF in the case of Dr. John A. Repicci, et
2 al. v. Christopher Jarvis.

3 INSTRUCTIONS: Please read the transcript of your
deposition and make note on this page of any changes.

4 Do not mark on the transcript itself. Please sign and
date this sheet.

5 ERRATA SHEET

6 PAGE	LINE	ERROR OR AMENDMENT	REASON
7	_____	_____	_____
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20 Under penalties of perjury, I declare that I have read

21 my deposition and that it is true and correct subject to
any changes in form or substance entered here.

22 _____

23 DATE HYMAN B. POLAKOFF

24 _____

25 REPORTER: SRZ